

Senate Bill No. 1395

CHAPTER 928

An act to amend Section 115880 of the Health and Safety Code, relating to public beaches.

[Approved by Governor September 30, 2014. Filed with
Secretary of State September 30, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, Block. Public beaches: inspection for contaminants.

Existing law requires the State Department of Public Health to adopt regulations for the minimum public health standards of public beaches, including requiring the testing of waters adjacent to all public beaches for specified microbial contaminants. Existing law authorizes the department to require testing of the waters adjacent to all public beaches for additional microbial indicators if the department establishes that those indicators are as protective of the public health.

This bill would authorize the department to allow a local health officer to use specified polymerase chain reaction testing methods published by the United States Environmental Protection Agency or approved as an alternative test procedure pursuant to federal law to determine the level of enterococci bacteria as a single test based on a single indicator at one or more beach locations within that jurisdiction if the local health officer demonstrates through side-by-side testing over a beach season that the use of the test method provides a reliable indication of overall microbiological contamination conditions. The bill would require the department, in making the determination of whether to authorize the use of those testing methods by a local health officer, to take into account whether the alternative indicators and related test method can provide results more quickly. The bill would specify that its provisions do not require the use of those testing methods.

The people of the State of California do enact as follows:

SECTION 1. Section 115880 of the Health and Safety Code is amended to read:

115880. (a) The department shall, by regulation and in consultation with the board, local health officers, and the public, establish, maintain, and amend as necessary, minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b) Prior to final adoption or amendment by the department, the regulations and standards required by this section shall undergo an external comprehensive review process similar to the process set forth in Section 57004 of the Health and Safety Code.

(c) The regulations shall, at a minimum, do all of the following:

(1) Require the testing of the waters adjacent to all public beaches for microbiological contaminants, including, but not limited to, total coliform, fecal coliform, and enterococci bacteria. The department may require the testing of waters adjacent to all public beaches for microbiological indicators other than those set forth in this paragraph, or a subset of those set forth in this paragraph, if the department affirmatively establishes, based on the best available scientific studies and the weight of the evidence, that the alternative indicators are as protective of the public health.

(2) Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1).

(3) Require that the waters adjacent to public beaches are tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1). Except as set forth in subdivision (e), testing shall be conducted on at least a weekly basis from April 1 to October 31, inclusive, of each year beginning in 2012, if both of the following apply:

(A) The beach is visited by more than 50,000 people annually.

(B) The beach is located on an area adjacent to a storm drain that flows in the summer.

(d) Notwithstanding subdivision (a), if a local health officer demonstrates or has demonstrated through side-by-side testing over a beach season that the use of United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, to determine the level of enterococci bacteria as a single indicator provides a reliable indication of overall microbiological contamination conditions at one or more beach locations within that health officer's jurisdiction, the department may authorize the use of that testing method at those beach locations instead of other testing methods. In making that determination, the department shall take into account whether an alternative indicator or subset of indicators, with the associated test method, can provide results more quickly, thereby reducing the period of time the public is at risk while waiting for contamination to be confirmed.

(e) The monitoring frequency and locations established pursuant to this section and related regulations may be reduced or altered only after the testing required pursuant to paragraph (3) of subdivision (c) reveals levels of microbiological contaminants that do not exceed, for a period of two years, the minimum protective standards established pursuant to this section.

(f) The local health officer shall be responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(g) The local health officer may meet the testing requirements of this section by utilizing test results from other parties conducting microbiological contamination testing of the waters under his or her jurisdiction.

(h) This section does not require a wastewater treatment agency or other party conducting microbiological contamination testing of the waters under his or her jurisdiction, who provides those test results to a local health officer pursuant to this section, to use United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, for total maximum daily load implementation, waste discharge requirements, or other monitoring programs required to be implemented pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(i) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the department pursuant to this section.